

## Message Text

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ORIGIN DLOS-03

INFO OCT-01 ISO-00 COA-01 L-01 OES-02 SP-02 EB-03 EUR-08

NEA-06 ARA-06 EA-06 AF-04 PM-03 IO-03 SS-14 INR-05

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DRAFTED BY: D/LOS:OESKIN:LB

APPROVED BY: D/LOS:JNMOORE

L/OES-MR LEITZELL (SUBS)

OES-CMDR BUSBY (SUBS)

S/P-MR BLANEY (SUBS)

EB-MR RIEGG (SUBS)

EUR/RPE-MR WOLFE (SUBS)

NEA/RA-MR PADEFORD (SUBS)

ARA/LA/PLC-MR MARTIN (SUBS)

EA/RA-MR THOMAS (SUBS)

AF/I-MR ANDEREGG (SUBS)

PM-MR PASZTALANIEC (SUBS)

IO-AMB. BLAKE (SUBS)

T-MR CRAFT (SUBS)

S/S-O:RELTZ

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E.O. 11652: GDS

TAGS: PLOS

SUBJ: LOS: STATE DEPARTMENT COMMENTS ON DRAFT INSTRUC-  
TIONS FOR LOS CONFERENCE

FROM JOHN NORTON MOORE FOR UNDER SECRETARY MAW

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1. THE DRAFT INSTRUCTIONS TO THE US DELEGATION FOR THE LOS CONFERENCE WERE FORMALLY CIRCULATED TO MEMBERS OF THE UNDER SECRETARIES COMMITTEE AND PARTICIPATING AGENCIES IN LOS NSC INTERAGENCY TASK FORCE ON MONDAY, JANUARY 6. AGENCIES HAVE BEEN REQUESTED TO PROVIDE THEIR FORMAL COMMENTS TO JOHN NORTON MOORE BY FRIDAY, JANUARY 10. IT WILL BE NECESSARY FOR THE DEPARTMENT OF STATE TO SUBMIT ITS FORMAL COMMENTS AS WELL.

2. THERE FOLLOWS (PARA 3) THE TEXT OF THE PROPOSED DEPARTMENT OF STATE COMMENTS ON THE DRAFT INSTRUCTIONS. THE TEXT HAS BEEN CLEARED WITH ALL BUREAUS AND OFFICES IN STATE, INCLUDING D/LOS, L, AND OES. THERE HAVE BEEN NO DIFFERENCES ON SUBSTANCE WITHIN STATE IN CONNECTION WITH THESE COMMENTS, ALTHOUGH IO CONTINUES TO HAVE STRONG CONCERNS ABOUT STRUCTURAL, FINANCIAL, AND ORGANIZATIONAL ASPECTS OF THE PROPOSED SEABED AUTHORITY, PRINCIPALLY BECAUSE OF THE PRECEDENTIAL IMPACT SUCH DECISIONS COULD HAVE ON A WHOLE SERIES OF BROAD-ER INTERNATIONAL ORGANIZATIONAL PROBLEMS. WE WOULD LIKE YOUR APPROVAL, OR YOUR CHANGES, ON THESE COMMENTS AS SOON AS POSSIBLE.

3. BEGIN QTE - THE DEPARTMENT OF STATE CONCURS IN THE RECOMMENDED INSTRUCTIONS PREPARED BY THE EXECUTIVE GROUP OF THE NSC INTERAGENCY TASK FORCE ON THE LAW OF THE SEA.

4. IN THE VIEW OF THE DEPARTMENT AN EARLY, COMPREHENSIVE OCEANS TREATY IS STRONGLY IN THE INTEREST OF THE UNITED STATES. FAILURE TO CONCLUDE SUCH A TREATY WOULD HAVE SERIOUS ADVERSE CONSEQUENCES FOR NAVIGATIONAL FREEDOMS, AFFECTING IMPORTANT SECURITY, COMMERCIAL AND ENERGY INTERESTS, WOULD ADVERSELY AFFECT OUR POLITICAL RELATIONS BOTH BILATERALLY AND WITHIN THE UNITED NATIONS, AND COULD ALSO LEAD TO SIGNIFICANTLY INCREASED RISK OF POLITICAL AND MILITARY CONFLICT FOR THE OCEANS. FAILURE COULD ALSO RESULT IN SUBSTANTIAL ECONOMIC AND ENVIRONMENTAL COSTS.

5. IF WE ARE TO HAVE A REALISTIC CHANCE OF CONCLUDING SUCH A TREATY, OUR DELEGATION MUST HAVE MAXIMUM FLEXIBILITY, PARTICULARLY WITH RESPECT TO THE DIFFICULT DEEP  
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SEABEDS ISSUE. THE DEPARTMENT FEELS THAT THE MOST USEFUL WAY TO PROTECT U.S. INTERESTS IN DEEP SEABED MINING IS TO ENCOURAGE A PACKAGE NEGOTIATION ON ALL DEEP SEABED ISSUES AND TO MAINTAIN FLEXIBILITY TO WORK OUT CREATIVE SOLUTIONS WHICH WILL PROTECT THE U.S. INTEREST IN GUARANTEED NONDISCRIMINATORY ACCESS WHILE MEETING THE CONCERNS EXPRESSED BY THE OVERWHELMING MAJORITY OF STATES IN THE NEGOTIATION. IN THIS CONNECTION, IT IS THE DEPARTMENT'S OPINION THAT

THE FLEXIBILITY GRANTED IN THE PROPOSED INSTRUCTIONS ON THE DEEP SEABEDS IS THE MINIMUM NECESSARY TO PROVIDE ANY REALISTIC OPPORTUNITY OF CONCLUDING A COMPREHENSIVE OCEANS TREATY. FAILURE TO GO TO GENEVA WITH SUFFICIENT FLEXIBILITY ON THE DEEP SEABEDS WILL GREATLY REDUCE THE CHANCES OF CONCLUDING SUCH A TREATY, WHICH, AS INDICATED ABOVE, COULD HAVE THE MOST SERIOUS CONSEQUENCES FOR UNITED STATES OCEANS INTERESTS.

6. WITH RESPECT TO PROTECTION OF THE MARINE ENVIRONMENT, THE DEPARTMENT SUPPORTS INCLUSION OF ALL OPTIONS CONTAINED IN THE INSTRUCTIONS AS FALLBACK AUTHORITY FOR THE DELEGATION, SUBJECT TO THE CONDITIONS SPECIFIED, PROVIDED THAT OPTIONS III AND IV ARE REGARDED AS ALTERNATIVES, WITH THE DELEGATION HAVING DISCRETION TO DETERMINE WHICH IS THE BEST ONE TO USE TO REACH AGREEMENT. THE DEPARTMENT BELIEVES THAT IT IS IN THE US INTEREST TO PROVIDE STRONG PROTECTIONS FOR THE MARINE ENVIRONMENT AND TO ENSURE THAT THE CONVENTION DOES NOT FORECLOSE FURTHER ACTIONS TO PREVENT THE DETERIORATION OF THE MARINE ENVIRONMENT.

7. WITH RESPECT TO THE SEABED MINERAL RESOURCES OF THE CONTINENTAL MARGIN BEYOND 200 MILES, THE DEPARTMENT SUPPORTS THE RECOMMENDED INSTRUCTIONS. THE DEPARTMENT FEELS THAT THE NEGOTIATION IS MOVING TOWARD ACCOMMODATING BROAD MARGIN STATES IN AREAS BEYOND 200 MILES PROVIDED REVENUE SHARING, AT LEAST FROM THE AREA BEYOND 200 MILES, GOES ALONG WITH THE EXTENDED JURISDICTION. THE RECOMMENDED INSTRUCTIONS PROVIDE NEEDED AUTHORITY TO SUPPORT SUCH A SOLUTION. BECAUSE OF THE STRONG INTERRELATION BETWEEN OUR SECURITY INTERESTS AND THE CHARACTER OF THE ECONOMIC ZONE, HOWEVER, THE DEPARTMENT FEELS THAT WE SHOULD MAKE CLEAR TO BROAD MARGIN STATES THAT U.S. ACCEPTANCE OF A BROAD  
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MARGIN SOLUTION IS DEPENDENT ON RECIPROCAL SUPPORT FOR OTHER U.S. OBJECTIVES. IN ADDITION, IT IS IMPORTANT THAT WE WORK FOR THE ADOPTION OF A REASONABLE OBJECTIVE TEST WHICH WOULD DELIMIT THE OUTER EDGE OF THE MARGIN AND WHICH WOULD PREVENT THE INCLUSION OF OVERLY BROAD AREAS UNDER NATIONAL JURISDICTION. THE MANY COMPETING CONSIDERATIONS CONCERNING A CUT OFF AT 200 MILES VERSUS A BROAD MARGIN SOLUTION ARE, HOWEVER, SO EVENLY BALANCED THAT THE UNITED STATES DOES NOT HAVE A STRONG INTEREST IN SACRIFICING OTHER IMPORTANT OBJECTIVES IN CONNECTION WITH THIS ISSUE. THEREFORE, THE DEPARTMENT ALSO CONCURS WITH THE RECOMMENDATION IN THE INSTRUCTIONS THAT, SHOULD THE NEGOTIATIONS DEVELOP TOWARD A CUT OFF OF NATIONAL SEABED MINERAL JURISDICTION AT 200 MILES, THE U.S. DELEGATION SHOULD HAVE AUTHORITY TO ACCEPT SUCH A SEABED BOUNDARY.

END QTE.

8. FYI: BECAUSE OF LENGTH OF PROPOSED INSTRUCTIONS WE  
HAVE NOT INCLUDED THEM IN THIS CABLE. IN SUBSTANCE THEY  
TRACK EARLIER DRAFT PREPARED BY DEPT WITH WHICH YOU  
ARE FAMILIAR. INGERSOLL

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